

4A-314. Default judgment and final decree of dissolution of marriage (without children).

STATE OF NEW MEXICO

COUNTY OF _____
_____ JUDICIAL DISTRICT

Petitioner,

v.

No. _____

Respondent.

**DEFAULT JUDGMENT AND
FINAL DECREE OF DISSOLUTION OF MARRIAGE
(without children)¹**

_____ (Petitioner's name) and _____
(Respondent's name) are married. Respondent failed to respond to the petition for dissolution of marriage after being served. The judge may make changes to this default decree and both parties must comply with any changes made.

I. PROPERTY BEING DIVIDED²

- A. Personal property** (such as clothing, furniture, jewelry, or artwork). Attached is a Personal Property List (Attachment A) showing all property and which party shall receive that property.

(Choose 1 or 2)

- ☐ 1. Each party already has possession of all the personal property each party will receive in this judgment.

(Or)

- ☐ 2. The parties shall get some or all of the property from the other party after this default judgment is signed by the judge and filed in the court.

- B. Real Property** (such as a home, mobile home, condominium, lot, or commercial building).³

(Choose all that apply)

- ☐ 1. Neither party has real property.

☐ 2. The parties have a marital home, which is located at _____ (street address), and with which they shall do the following:

(Complete the correct section: a. Keep the home; b. Sell the home; or c. Other plan.)

☐ a. **Keep the home.**

_____ (name of Petitioner or Respondent) shall keep the home and shall be responsible for all debts related to the home.

The person who keeps the home is called the “homeowner.” The other person is called the “moving spouse.”

(Choose all that apply)

☐ i. The amount owed to the moving spouse to buy out that person’s interest is \$ _____, which is included in the calculation of the Cash Payment, Section III, below.

☐ ii. The homeowner shall apply to refinance the debt owed on the home no later than _____ (date).

☐ iii. The homeowner shall buy out the moving spouse’s interest in the home or get the moving spouse off of the loan papers as follows:⁴

☐ b. **Sell the home.** The home shall be sold and the money from the sale shall be divided as follows:

_____.

While the home is being sold, ☐ Petitioner (or) ☐ Respondent (choose one) shall stay in the home.

Until the home sells, the parties shall pay expenses, including mortgage, taxes and insurance, utility bills, and repairs for the home as follows (describe who is to pay and how much each person will pay):

_____.

The parties shall cooperate with the showing of the home and the sale of the home, including signing all paperwork needed in order to sell it and transfer title. Both parties shall preserve the home in a reasonable way including the following things:

_____.

☐ c. **Other plan.** Attached is a separate sheet with the plan regarding the home.

☐ 3. One or both of the parties has other real property as set forth in the attached Real Property List (Attachment B), and that property shall be divided as set forth in the attachment. If one party owes the other money for the division of the other real property, that amount is included in the calculation of the Cash Payment, Section III, below.

C. Bank and investment accounts (*such as checking accounts, savings accounts, stocks, bonds, certificates of deposit, mutual funds, or life insurance policies with cash value*).

(Choose 1 or 2)

☐ 1. The parties do not have any bank or investment accounts.

(Or)

☐ 2. The parties have the following bank or investment accounts and shall divide them as follows:

Petitioner shall have the following bank or investment accounts:

Name of institution	Last four (4) digits of account number
_____	_____
_____	_____
_____	_____

Respondent shall have the following bank or investment accounts:

Name of institution	Last four (4) digits of account number
_____	_____

D. Retirement Plans (*such as IRAs, retirement accounts, pension plans, or 401(k) plans*).⁵

(Choose 1 or 2)

☐ 1. Neither party has a retirement plan.

(Or)

☐ 2. The parties shall divide the retirement plan(s) as follows:

Petitioner has the following retirement plan(s):	(Circle one to show whether Petitioner will KEEP the entire plan, DIVIDE the plan with Respondent, or TRANSFER the entire plan to Respondent)	If plan will be DIVIDED, the amount or % to be given to Respondent:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

Respondent has the following retirement plan(s):	(Circle one to show whether Respondent will KEEP the entire plan, DIVIDE the plan with Petitioner, or TRANSFER the entire plan to Petitioner)	If plan will be DIVIDED, the amount or % to be given to Petitioner:
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	
	[KEEP] [DIVIDE] [TRANSFER]	

If any retirement plan will be divided, a Qualified Domestic Relations Order (“QDRO”) shall be prepared and submitted to the Court by Petitioner by _____ (date).⁶

E. Vehicles (*such as cars, trucks, motorcycles, recreational vehicles, boats, tractors, or trailers*).⁷

(Choose 1 or 2)

☐ 1. The parties do not have any vehicles.

(Or)

☐ 2. The parties have vehicles and shall divide them as follows:

Petitioner shall keep the following vehicles and assume any debt relating to each vehicle (*provide the make, model, and year of each vehicle and list the vehicle identification number*):

Vehicle description	Vehicle Identification No.
_____	_____
_____	_____
_____	_____.

Respondent shall keep the following vehicles and assume any debt relating to each vehicle (*provide the make, model, and year of each vehicle and list the vehicle identification number*):

Vehicle description	Vehicle Identification No.
_____	_____
_____	_____
_____	_____.

Each party listed above as keeping the vehicles shall pay for the costs of the vehicles, including insurance. The parties shall transfer title by the following date:

☐ _____ (date).

(or)

☐ when the vehicle is paid off.

F. Other property (*such as business interests, patents, trademarks, copyrights, royalties, manuscripts, or any other property*).

(Choose 1 or 2)

☐ 1. Neither party has any other property.

(Or)

☐ 2. One or both parties has the other property listed below, and shall divide it as follows:

_____.

II. DEBTS BEING DIVIDED⁸

A. Debt. Attached is a Debt List (Attachment C) which lists all of the parties' debts, including mortgages, vehicle payments, taxes, credit cards, student loans, medical debts, judgments, and any other debts the parties may have. Any debt not listed is the responsibility of the person who created it. Each party shall pay debts created by that party prior to the marriage, unless stated differently here. Unless stated differently here, a party who takes property (such as a house or car) with a debt associated with it, shall take the debt.

(Choose all that apply)

☐ The parties have no debt from the marriage.

☐ Each party shall pay the debts as listed on Attachment C.

☐ The amount owed from _____ to _____ for the division of the debts is \$_____, which is included in the calculation of the Cash Payment, Section III, below.

B. Credit cards and charge cards. Each party shall turn in and cancel all joint credit cards, or shall have the credit card company take the other party's name off of the account.

C. Taxes. The parties shall share information necessary to correctly file income tax returns. Each party will get the help needed to file taxes.

D. Problem with tax returns. If any tax returns that the parties filed jointly are audited or contested, the parties should meet to decide what to do. If the parties cannot decide who pays the taxes owed or who gets any refund, they will ask a judge to decide at the time the problem comes up.

E. Failure to pay debts. If either party fails to pay the debts each is ordered to pay, the other party may end up making that payment. If that happens, the party who should have paid may have to repay the other party, including any other extra costs caused by the failure to pay, such as attorney fees, late fees, and interest charged by the creditor.

III. CASH PAYMENT

To equalize the division of property and debts, _____ (name) shall pay _____ (name) the amount of \$ _____ no later than _____ (date). Judgment shall enter in this amount for

_____ (name). The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.

IV. SPOUSAL SUPPORT⁹

(Choose 1 or 2)

- ☐ 1. **No spousal support.** Each party can support himself or herself and neither shall pay spousal support to the other.

(Or)

- ☐ 2. **Spousal support.** ☐ Petitioner (or) ☐ Respondent (choose one) shall pay spousal support to the other party.

a. Spousal support shall be paid as follows:

(Choose i, ii, or iii)

- ☐ i. \$_____ per month on the _____ (date) of each month for _____ (period of time), which is not modifiable.

(Or)

- ☐ ii. \$_____ per month on the _____ (date) of each month until modified by the court.

- ☐ iii. Other plan:

b. For tax purposes, spousal support shall be treated as follows:

- ☐ i. The person paying spousal support may deduct the payments on [his] [her] income tax return. The person receiving support shall show the support as income on [his] [her] income tax return. Spousal support shall end if the person to receive the support dies.

(Or)

- ☐ ii. The person paying spousal support shall not deduct the payments on [his] [her] income tax return. The person receiving spousal support will not include the payment as income on [his] [her] income tax

return.

The Court, having considered the evidence FINDS AND CONCLUDES:

1. The Court has jurisdiction over the subject matter of this action and over the parties
2. The parties are incompatible.
3. The division of property and debts in this Default Judgment and Final Decree of Dissolution of Marriage is fair and reasonable.
4. Respondent's default has been certified by the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The marriage of Petitioner and Respondent is dissolved on the grounds of incompatibility.
2. The parties are ordered to comply with the terms of this Default Judgment and Final Decree of Dissolution of Marriage.

(Select and complete the following paragraphs if applicable)

- ☐ 3. The Court retains jurisdiction to enter QDROs or other orders dividing the retirement plans referenced in this Default Judgment and Final Decree of Dissolution of Marriage.
- ☐ 4. Judgment in favor of ☐ Petitioner *(or)* ☐ Respondent is awarded in the amount of \$_____, as set forth in Section III (Cash Payment) of this Default Judgment and Final Decree of Dissolution of Marriage. The statutory interest rate shall apply as provided in Section 56-8-4(A) NMSA 1978.
- ☐ 5. Petitioner's name is restored to the former name of _____.

SO ORDERED:

Date

District Court Judge

VERIFICATION

I, _____, am the Petitioner, and I affirm under penalty of

perjury under the laws of the State of New Mexico the following:

I am signing this document alone because Respondent is in default;

I have disclosed all assets and debts known to me;

This document and the statements in it are true and correct to the best of my knowledge and belief;

I understand that I can be punished both civilly and criminally if any information in this document is false.

Submitted/Approved by

Petitioner

Date

Mailing address

City, state, and zip code

Telephone number

ATTACHMENT A: PERSONAL PROPERTY LIST

(Attach additional pages if needed)

List all items of value to you, such as furniture, household items, electronics, art, jewelry, and tools.

[illegible]

ATTACHMENT B: REAL PROPERTY LIST

(Attach additional pages if needed)

List all homes (other than the marital home), land, or other real property owned by Petitioner or Respondent.

Other Real Property

1. Address/Description of property: _____

The parties shall do the following with the property after the divorce:

(Choose all that apply)

_____ Petitioner will keep the property;

_____ Respondent will keep the property;

_____ [] Petitioner [] Respondent shall pay the other party \$_____.

_____ The property will be sold and the proceeds divided as follows:

_____ Other plan:

2. Address/Description of property: _____

The parties shall do the following with the property after the divorce:

(Choose all that apply)

_____ Petitioner will keep the property;

_____ Respondent will keep the property;

_____ [] Petitioner [] Respondent shall pay the other party \$_____.

_____ The property will be sold and the proceeds divided as follows:

_____ Other plan:

ATTACHMENT C: DEBT LIST

(Attach additional pages if needed)

(NOTE: This document is a public document. DO NOT list the full account number for any credit card or other loan information that you would not want to make public.)

This decree may not bind creditors.

[illegible]

USE NOTE

1. This form may be used anywhere in this state to enter a default judgment and final decree of dissolution of marriage when the parties do not have minor children or a child under nineteen years of age who is attending high school.

2. It is highly recommended that you consult with an attorney. Whether property is separate or community is a complicated issue. There can be serious consequences, including tax consequences, for the division of property and for not properly transferring property, including retirement accounts. You may need separate documents to transfer divided property.

3. To transfer land, a building or a home other than a mobile home, the parties must prepare, sign and record a deed in the real property records where the property is located. To transfer a mobile home, contact the Motor Vehicle Division.

4. If both parties are listed on the mortgage, you must seek lender approval to remove the moving spouse from the mortgage and from responsibility for payment.

5. If the parties are going to divide a retirement plan, contact the retirement plan before completing and filing this form. Depending on the plan, a QDRO may be necessary.

6. CAUTION: You may want to consult an attorney about your retirement, pension, deferred compensation, 401k plans, and/or benefits. If you do not see an attorney regarding these assets, you risk losing any interest you have in these plans and/or benefits. There are certain documents the plan administrator must have. An attorney can help you prepare these documents.

7. To transfer vehicles or a mobile home, contact the Motor Vehicle Division.

8. This default judgment may not affect the rights of creditors even when approved by the Court as part of the final decree. The creditor may expect payment from you no matter who is ordered to pay the debt in this default judgment. See an attorney if you have questions about separate and community debts and separate and community property.

9. Consult with an attorney if problems arise later.

[Approved by Supreme Court Order No. 14-8300-011, effective for all pleadings and papers filed on or after December 31, 2014, in all cases filed or pending on or after December 31, 2014.]